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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 METROPOLITAN LIFE
10 INSURANCE COMPANY,

11 Plaintiff,

12 vs.

13 GARY SUMNER, as Trustee of the
14 Testamentary Trust of Martin
Herman FBO L.H., a minor under
the age of 18; JARED MICAH
HERMAN and JADE HERMAN,

15 Defendants.
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Case No. C15-1451RSL

ORDER DENYING TRUSTEE’S
MOTION FOR SUMMARY
JUDGMENT

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18 This matter comes before the Court on the “Motion for Summary Judgment of Gary
19 Sumner, Trustee” (Dkt. # 48) and the oral arguments presented on July 19, 2016. The relevant
20 facts in this matter are undisputed: shortly before Martin Herman died, his wife, Suzanne,
21 executed a life insurance beneficiary designation change form purporting to reduce the policy
22 proceeds that would be paid to Jade and Micah, Martin’s adult children from a first marriage,
23 in favor of their minor daughter, L.H. The dispositive issue for purposes of this motion for
24 summary judgment is whether Suzanne had the authority to alter the beneficiary designations
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1 under the Reciprocal Durable Powers of Attorney she and Martin signed on November 24,
2 2014.¹

3 She did not. Under Washington law, a designated agent or attorney-in-fact does not
4 have the power to alter the principal's life insurance beneficiary declarations unless the
5 document specifically grants that power. RCW 11.94.050. A general authorization to exercise
6 "all the powers the principal would have if alive and competent" is not enough. Id. When
7 construing powers of attorney, "the instrument will be held to grant only those powers which
8 are specified, and the agent may neither go beyond nor deviate from the express provisions."
9 Bryant v. Bryant, 125 Wn.2d 113, 118 (1994). Paragraph 4.G. of the Reciprocal Durable
10 Powers of Attorney signed by Martin on November 24, 2014, specifically provides that the
11 attorney-in-fact has the power "to make, change or revoke any wills, codicils, life insurance
12 beneficiary designations, trust agreements or community property agreements of the principal
13 in order to gain tax advantages on behalf of the principal or the principal's estate." Dkt. #49 at
14 16. By the terms of the document, Suzanne's power to change life insurance beneficiary
15 designations was limited to changes made for a specific purpose – "in order to gain tax
16 advantages." Nothing about the syntax or punctuation of paragraph 4.G. suggests that the
17 limitation as to purpose applies to only some of the listed authorizations.

18 The Trustee argues that the limitation does not apply to changes in life insurance
19 beneficiary designations because there can be no tax advantages to the principal arising from
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¹ The Court has not relied upon or considered the evidence to which the Trustee objects in making this determination. The Court also finds it unnecessary to consider the supplemental evidence submitted by Jade and Micah on June 22, 2016. The motion for leave to supplement (Dkt. # 75) is therefore DENIED.

1 such a change. Because a change in beneficiary designation can never provide a tax
2 advantage, the argument goes, the purported authorization is illusory unless the limiting
3 language is ignored. This argument is factually and legally unsupported. The Trustee offers
4 no analysis or expert testimony regarding the potential tax implications of a beneficiary
5 designation. A rudimentary familiarity with probate, estate, and tax law reveals that tax
6 implications are a common consideration when the insured is choosing between naming an
7 individual, a trust, or the principal's estate as the beneficiary of a life insurance policy. Rather
8 than provide any legal or factual analysis regarding these implications, the Trustee relies
9 solely on a statement in Jade and Micah's crossclaim in which they assert that there could be
10 no tax advantage to anyone by changing the beneficiary of a life insurance policy. Dkt. #48 at
11 9. Even if Jade and Micah could authoritatively expound on such matters, their statement was
12 offered in support of their argument that the March 20, 2015, change had no impact on the tax
13 consequences to Martin or Martin's estate and was therefore unauthorized. Read in context,
14 the statement cannot reasonably be interpreted as an admission that changes in beneficiary
15 designations can never have tax implications.
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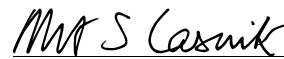
17 Just as importantly, the Trustee cannot rewrite the specific terms of the Reciprocal
18 Durable Powers of Attorney simply because a provision turns out to be ineffective.
19 Washington law requires powers of attorney to be strictly construed and attorneys in fact to
20 limit themselves to the powers specifically authorized. If an authorized power is barred by
21 statute or is otherwise an impossibility – as is the invalid authorization to change Martin's
22 will or codicil -- it cannot be exercised. The Trustee's preferred option of ignoring specified
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1 limitations so that a power can be exercised more broadly than stated cannot be justified
2 under Washington law.

3 For all of the foregoing reasons, the Court finds that Suzanne did not have the power
4 or authority to change Martin's life insurance beneficiary designation on March 20, 2015.

5 The Trustee's motion for summary judgment (Dkt. # 48) is DENIED, and Jade and Micah are
6 entitled to a summary determination of this issue in their favor.
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10 Dated this 5th day of August, 2016.

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12 Robert S. Lasnik
13 United States District Judge
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